



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/804,900	02/24/97	MECHALEY	R 06318/005001

GARY A WALPERT
FISH & RICHARDSON
225 FRANKLIN STREET
BOSTON MA 02110-2804

LM71/0913

EXAMINER

POINVIL, F

ART UNIT

PAPER NUMBER

2761

DATE MAILED: 09/13/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/804,900

Applicant(s)
Mechaley et al.

Examiner
Frantzy Poinvil

Group Art Unit
2761



☒ Responsive to communication(s) filed on Jul 23, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-27 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-27 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 9

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 2761

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10, 18-20 and 22-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over “NSP to install wireless network meter reading system will consolidate its data collection by installing wireless network meter system” (herein after “NSP”) considered with Meyers, “CDMA gets its day in the sun”, herein after “CDMA”.

As per claim 1, NSP discloses a computer-based system which gathers real-time energy usage information from electric meters and gas meters located at consumers premises. The system obtains these information through radio transmitters that communicate usage information to NSP system controller which will make the data available on a database that can be accessed via utility gateways. “The detailed data collected will enable NSP to examine specific information about customers’ energy usage and determines which additional value added products and services to offer customers through full scale network information services. Note page 1 of the article. While the phrase providing users “product function an availability of said greater

Art Unit: 2761

functionality”¹⁴ is not explicitly stated, it would have been obvious to the skilled artisan that the users of gas or electric services would not be changed. The value added products or services would have been greater functionality of the current product or services which the consumers currently subscribe for. In any event, CDMA discloses the release of upgraded cellular services and greater cellular communications functionality to customers of AirTouch Communications, Inc. based on usage patterns. Note page 1 of the article, lines 35-41. It would have been obvious to one of ordinary skill in the art of resource management to modify NSP with the patterned upgrade offering method of CDMA. One would have been motivated to do so in order to provide customers with full capability of a product or services for which is deemed necessary to their usages.

As per claim 2, NSP discloses collecting interval of use data (page 1, lines 27-31).

As per claims 3-5, NSP discloses a computer-based system for determining value-added products and services to be offered to customers based on customers' past usage practices. Although NSP discloses collecting statistical data regarding use of products and services (NSP at page 1, lines 39-42), it does not teach collection of demographic or geographic data for analysis. However, the Examiner asserts that the use of geographic/demographic data is well-known in field of marketing analysis and such would have been an obvious data for the skilled artisan to utilize.

As per claim 6, Although NSP does not teach a threshold at which customers are offered upgraded products, CDMA discloses determining whether a threshold has been exceeded as

Art Unit: 2761

indicated by usage data such that the user is to be offered communications upgrades (CDMA at page 1, lines 35-37).

As per claim 7, although both NSP and CDMA disclose analysis of product usage data to determine whether a data pattern can be identified. Neither article expressly teaches application of a fuzzy algorithm to the analysis. However, the Examiner asserts that the use of fuzzy algorithm is merely a design choice from among a plurality of known analysis methods.

As per claim 8, NSP discloses interactively communicating with users (page 1, lines 27-49).

As per claim 9, the Examiner asserts that interactive voice communication is well known in the art and would have been obvious especially in a phone technology communication system.

As per claim 10, the Examiner asserts that computer displays, touch screens, and keypads are well known means of communication between computer systems and users that would have been obvious to include in the combination above for communicating and displaying information to the user.

Claim 18 contains limitations addressed in claims 1 and 6 and therefore are rejected under the same rationale.

The limitations of claims 19 and 20 are found in claims 2 and 3, respectively, and they are rejected under the same rationale.

The limitations of claims 22-24 are found in claims 1-3, respectively, and they are rejected for the same reasons.

Art Unit: 2761

The limitations of claim 25 are found in claims 1 and 6, and is objected for the same reasons.

The limitations of claims 26-27 are found in claims 2 and 3, respectively, and these claims are objected for the same reasons.

2. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over “NSP to install wireless network meter reading system will consolidate its data collection by installing wireless network meter system” (herein after “NSP”) considered with Meyers, “CDMA gets its day in the sun”, herein after “CDMA” as applied to claim 1 above, and further in view of Blau (US Patent No. 5,634,101)

As per claims 11, NSP discloses collecting data from a plurality of users. Note page 1, lines 18-22. Collecting user decisions from a plurality of users is not taught by the combined teachings. Blau teaches a method and system for obtaining consumers’ responses about certain products or services they use. Note column 3, lines 33 to column 4, line 12 of Blau. It would have been obvious to one of ordinary skill in the art at the time of the invention to introduce the concept of Blau into the combination of NSP and CDMA in order to obtain consumers responses regarding usages of a particular product. Determining when to offer greater functionality to a user based upon at least group user data and decisions would have been the same as discussed in regard to claims 1 above.

Art Unit: 2761

3. Claim 12-13, 15-17 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over “NSP to install wireless network meter reading system will consolidate its data collection by installing wireless network meter system” (herein after “NSP”) considered with Meyers, “CDMA gets its day in the sun”, herein after “CDMA”, as applied to claims 1 and 18 above, and further in view of Thompson et al (US Patent No. 5,335,276).

As per claim 12, NSP discloses a computer-based system for determining which additional value-added products and/or services should be offered to customers based on those customers’ past usage practices. CDMA discloses offering greater cellular telephone communications functionality based on customer usage patterns. While neither NSP nor CDMA disclose application of usage analysis to telephone personal assistant systems, Thompson teaches simplified upgradability of telephone personal assistant devices such that the devices are customized to each customer’s usage (note Thompson at abstract, column 3, lines 21-26 and 36-40 and column 5, lines 59-65). The motivation to modify NSP and CDMA with the personal assistant of Thompson would have been to extend the upgrade offerings of CDMA’s cellular network to the actual cellular telephones in use on the network (note Thompson at column 3, line 56 to column 4, line 11). The remaining limitations of claim 12 are found in claim 1, and the remainder of this claim is rejected to for the same reasons.

The limitations of claim 13 are found in claims 1 and 6 and therefore is rejected for the same reasons.

Art Unit: 2761

The limitations of claim 15 are found in claims 8 and 9 and thus is rejected under a similar rationale.

The limitations of claim 16 are found in claims 1 and 10, and this claim is rejected under a similar rationale.

As per claim 17, CDMA discloses offering greater functionality dependent on usage patterns (page 1, lines 35-37). The Examiner asserts that by being eligible for greater functionality, the users by necessity were started at a lower functionality level.

The limitations of claim 21 are found in claims 1, 6 and 12, and is rejected under a similar rationale.

4. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over “NSP to install wireless network meter reading system will consolidate its data collection by installing wireless network meter system” (herein after “NSP”) considered with Meyers, “CDMA gets its day in the sun”, herein after “CDMA”. as applied to claim 12 above, and further in view of Blau (US Patent No. 5,634,101).

As per claim 14, NSP discloses collecting data from a plurality of users. Note page 1, lines 18-22. Collecting user decisions from a plurality of users is not taught by the combined teachings. Blau teaches a method and system for obtaining consumers’ responses about certain products or services they use. Note column 3, lines 33 to column 4, line 12 of Blau. It would have been obvious to one of ordinary skill in the art at the time of the invention to introduce the concept of Blau into the combination of NSP and CDMA in order to obtain consumers responses

Art Unit: 2761

regarding usages of a particular product. Determining when to offer greater functionality to a user based upon at least group user data and decisions would have been the same as discussed in regard to claims 12 above.

5.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil, whose telephone number is (703) 305-9779. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.

The fax phone number for this Art Unit is (703) 305-0040.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

FP
13Sep99


Frantzy Poinvil
Primary Examiner
Art Unit 2761